

EXHIBIT A

202106531, NARCISSE, JACKEE vs. BOTTLING GROUP LLC (D/B/A PEPSICO)

TX District & County - Harris (District Only)

Harris

This case was retrieved on 03/02/2021

Header

Case Number: 202106531

Date Filed: 02/02/2021

Date Full Case Retrieved: 03/02/2021

Status: Open

Misc: (43) DISCRIMINATION; Civil

Summary

Case Type: Civil

Judge: ELAINE H PALMER

Court Number: 215th

Participants

Litigants

NARCISSE, JACKEE
PLAINTIFF - CIVIL

BOTTLING GROUP LLC (D/B/A PEPSICO)

DEFENDANT - CIVIL

PEPSICO

DEFENDANT - CIVIL

BOTTLING GROUP LLC (D/B/A PEPSICO)(A
CORPORATION) MAY BE SERVED BY

REGISTERED AGENT

Attorneys

MURPHY, MARJORIE A.
PLAINTIFF - CIVIL
Status: Active

Services

Type	Status Description	Instrument Served	Person Served	Details
CITATION	SERVICE ISSUED/IN	ORIGINAL	BOTTLING GROUP LLC (D/B/A	Requested Date:

202106531, NARCISS, JACKEE vs. BOTTLING GROUP LLC (D/B/A PEPSICO)

Type	Status Description	Instrument Served	Person Served	Details
(CERTIFIED)	POSSESSION OF SERVING AGENCY	PETITION	PEPSICO)(A CORPORATION) MAY BE SERVED BY	02/02/2021 Issued Date: 02/03/2021 Tracking Number: 73837602 Deliver To: CVC/CTM SVCE BY CERTIFIED MAIL

Proceedings

Date	#	Proceeding Text	Details
02/02/2021		ORIGINAL PETITION	Attorney: MURPHY, MARJORIE A. PersonFiling: NARCISS, JACKEE
02/02/2021		PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE	Document Number: 94224737/ 94224738 Pages: 10
02/03/2021		Certified Mail Tracking Number 7018 2290 0001 3525 5149	Document Number: 94244080 Pages: 2
02/03/2021		Reference for Issuance of Service	Document Number: 94239937 Pages: 1
02/04/2021		Certified Mail Receipt	Document Number: 94309778 Pages: 1

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End of Document



202106531 - NARCISSÉ, JACKEE vs. BOTTLING GROUP LLC (D/B/A PEPSICO) (Court 215)

Chronological Print
History All
(non-financial)

Summary	Appeals	Cost Statements	Transfers	Post Trial Writs	Abstracts	Parties
Court Costs	Judgments/Events	Settings	Services/Notices	Court Registry	Child Support	Images

Click column headings to sort. Click again to toggle direction.
Service will be available 24 hours from date of issuance.

Print Service

Services Notices

	Type	Status Description	Instrument Served	Person Served	Requested Date	Issued Date	Served Date	Returned Date	Received By Clerk	Tracking Number	Deliver To
	CITATION (CERTIFIED)	SERVICE ISSUED/IN POSSESSION OF SERVING AGENCY	ORIGINAL PETITION	BOTTLING GROUP LLC (D/B/A PEPSICO)(A CORPORATION) MAY BE SERVED BY	2/2/2021	2/3/2021				73837602	CVC/CTM SVCE BY CERTIFIED MAIL

[WS4]



202106531 - NARCISSE, JACKEE vs. BOTTLING GROUP LLC (D/B/A PEPSICO) (Court 215)

[Chronological History](#) [Print All](#)
[\(non-financial\)](#)

Summary	Appeals	Cost Statements	Transfers	Post Trial Writs	Abstracts	Parties
Court Costs	Judgments/Events	Settings	Services/Notices	Court Registry	Child Support	Images

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Image No.	Type	Title Sort	[Reset]	Post Jdgmt	Date	Pages	Add Entire Case
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94239937	Filing	Reference for Issuance of Service			02/03/2021	1	Add to Basket
94244080	Filing	Certified Mail Tracking Number 7018 2290 0001 3525 5149			02/03/2021	2	Add to Basket
94224737	Filing	PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE			02/02/2021	9	Add to Basket
> 94224738	Filing	Civil Case Information Sheet			02/02/2021	1	Add to Basket

[WS4]

CAUSE NO. _____

JACKEE NARCISSE

Plaintiff

V.

BOTTLING GROUP, LLC
d/b/a
PEPSICO

Defendant

IN THE DISTRICT COURT OF

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the allegations in this lawsuit. Ms. Narcisse was, at all relevant times, an employee within the meaning of the applicable statutes.

5. Defendant Bottling Group, LLC d/b/a PepsiCo is a corporation doing business in Harris County, Texas and can be served with process by delivering a true and correct copy of this Original Petition by serving its registered agent of record: CT Corporation System, 1999 Bryan Street, Ste. 900, Dallas, Texas 75201-3136.

6. The Court has jurisdiction over this matter in accordance with the Texas Civil Practices and Remedies Code.

VICARIOUS LIABILITY--RESPONDEAT SUPERIOR

7. Whenever in this pleading it is alleged that Defendant did any act or thing, or failed to do any act or thing, it is meant that Defendant's officers, owners, servants, employees, or representatives and management did such act or thing, or failed to do such act or thing, or that such act or thing or omission was done in the course and scope of that person's employment at PepsiCo, or in the furtherance of Defendant PepsiCo's interests, or with the full authorization, permission, tolerance, and/or ratification of Defendant, or was done by an authorized member of management of Defendant or was done in the normal routine of the accepted, tolerated, or permitted conduct, customs, and/or practices of Defendant's officers, owners, servants, employees, management and/or representatives.

8. All conditions precedent to the filing of this lawsuit have occurred.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Ms. Narcisse filed an original Charge of Discrimination ("Charge") with the Texas Workforce Commission (hereinafter "TWC") on or about October 19, 2020, wherein she averred that Defendant engaged in discrimination against her because of her sex/gender and sexual

orientation by subjecting her to disparate treatment and allowing her male coworkers, at least one of whom was known to incite violence, to berate her and call her a dike bitch and gay hoe, and to threaten her life in front of management and other coworkers and that Defendant then terminated her employment. The TWC assigned Ms. Narcisse's Charge thereto the No. 460-2020-05549.

10. The TWC issued Ms. Narcisse a Right-to-Sue letter on December 14, 2020, and she has timely filed suit.

IV.
NOTICE OF FACTS

11. Ms. Narcisse is an openly gay female. She prefers to wear masculine clothes, and she fully accepts her dominant nature.

12. On October 1, 2018, Defendant hired Ms. Narcisse to work with PepsiCo as a full-time loader in Defendant's warehouse.

13. During Ms. Narcisse's employment at PepsiCo, Defendant kept daily performance logs, which indicated she was one of the best performers in the warehouse. Accordingly, Ms. Narcisse sought promotions with Defendant in line with her qualifications but Defendant never considered her for promotion or promoted her.

14. Determined, however, Ms. Narcisse just focused on performing her best in hopes that Defendant would eventually promote her. Ms. Narcisse's job was physically taxing. Heavy lifting was required by the job.

15. In approximately October 2019, Ms. Narcisse was injured at work while lifting and was placed on light duty. Although on light duty, Defendant regularly forced Ms. Narcisse to work jobs that exceeded her physical abilities and medical limitations by requiring her to lift items heavier than her medical restrictions allowed.

16. Although Ms. Narcisse complained directly to management that the work she was required to do was outside of her medical restrictions, Defendant did not change her workload or assignment. Further, Ms. Narcisse felt pressured to return to full-duty work because her coworkers constantly told her that Defendant would get rid of her if she did not return to full time work. Even manager Richard had “joked” with Ms. Narcisse about her losing her job.

17. Worried about her job, Ms. Narcisse requested that her doctor release her to full-duty work in approximately November 2019 although she did not feel physically ready to return to fulltime work.

18. In mid-November 2019, Ms. Narcisse’s doctor released her back to work with physical restrictions and Ms. Narcisse reported to work on or about November 15, 2019. While there, however, Defendant’s warehouse manager, Maria told Ms. Narcisse that she could not be at work with medical restrictions and that she was not able to return to work until fully cleared from all restrictions.

19. Based on Maria’s instructions, Ms. Narcisse went out on medical leave from November 2019 to approximately December 2019.

20. Upon her doctor’s release, Defendant reassigned Ms. Narcisse to her full-time loader position.

21. At around this same time period, a male employee named Barrett repeatedly called Ms. Narcisse a ~~dike~~ bitch. Despite this discriminatory slur, Defendant allowed Barrett to continue to work with Ms. Narcisse.

22. In February 2020, Ms. Narcisse re-injured her back on the job, and this time, Defendant’s doctor placed her on medical leave as her back injury was significant.

23. While on medical leave, in approximately June 2020 Ms. Narcisse's supervisor Richard Medina texted her pressuring her to come back to full duty work. In fact, Mr. Medina also had other workers such as Terrance also text Ms. Narcisse urging her to come back to work. A coworker told Ms. Narcisse that Mr. Medina had said that if she returned to work before her back fully healed, there would be a claw position available upon her return to work.

24. Physically unable, Ms. Narcisse remained out on medical leave. On or about June 11, 2020, Ms. Narcisse underwent surgery to reduce the tension on her back.

25. In August of 2020, Mr. Medina spoke to Ms. Narcisse's doctor and afterwards, Ms. Narcisse's doctor fully released her back to work. Ms. Narcisse returned to work on or about August 24, 2020.

26. On her first day back, Narcisse was operating a forklift down an aisle when another employee, Josh, ran the pallet jack he was operating into the end of Ms. Narcisse's forklift.

27. Josh charged towards Ms. Narcisse as if he was going to strike her. Supervisor John came down the aisle to see what was going on. In the presence of Supervisor John and another coworker, Josh called Plaintiff Narcisse a dike bitch, a gay hoe and threatened to shoot her several times.

28. Upon information and belief, this was not Josh's first time physically threatening a coworker while working with Defendant.

29. Based on Josh's aggression and hostility towards her, Ms. Narcisse was reasonably scared for her life. Even in front of Supervisor John, Josh continued to physically threaten Ms. Narcisse's life and yell that he would shoot her dike ass. Ms. Narcisse endured these threats without management intervention for at least 10 minutes. Eventually, Supervisor John walked Josh off Defendant's premises, and told Ms. Narcisse, "I need to get this nig-er out of here."

30. The next day, Ms. Narcisse went to work only to see Richard, John and Josh in the office talking and laughing. Ms. Narcisse immediately went to complain to warehouse manager Clint, who had not witnessed the incident the day before. Ms. Narcisse told Clint she did not feel comfortable working within Josh's presence and wanted to go home until it was safe to return to work but Clint asked her to stay while he investigated her claims.

31. Thirty minutes later, Clint came back to Ms. Narcisse and suspended her employment pending further investigation while Josh, the male coworker, who had called Ms. Narcisse a dike bitch, gay hoe and threatened to shoot her was not immediately suspended. Defendant told Ms. Narcisse that they would contact her upon the completion of Defendant's investigation.

32. For weeks Defendant did not reach out to Ms. Narcisse. In fact, Ms. Narcisse had to call Defendant several times to get an update.

33. On or about September 10, 2020, Defendant PepsiCo terminated Ms. Narcisse's employment alleging that Ms. Narcisse violated Defendant's policy regarding anti-violence by threatening a fellow coworker but that was completely false and Defendant's management knew it. In fact, Defendant's supervisor John witnessed the incident and knew that it was Josh, the male employee who made hateful and discriminatory comments about Ms. Narcisse's sex and sexual orientation and threatened to shoot her in front of other coworkers.

34. As set forth above, Defendant has subjected Ms. Narcisse to disparate treatment by its harsh discipline towards her and its failure to promote her in comparison to its male employees and/or its employees who are not openly gay. The facts herein demonstrate that Defendant's adverse actions against Ms. Narcisse was based on her sex/gender and/or sexual orientation.

**V.
CAUSES OF ACTION**

A. Gender Discrimination in Violation of the Texas Commission on Human Rights Act (“TCHRA”)

35. Plaintiff repeats and re-alleges by reference each and every allegation contained in the paragraphs above and incorporates the same herein as though fully set forth.

36. As herein alleged, Defendant illegally discriminated against and subjected Plaintiff to disparate treatment because of her gender (female) and/or because of her sexual orientation. Specifically, Defendant illegally subjected Plaintiff to disparate treatment in the form of repeated but unwarranted failures to promote, harassment, harsh treatment, maltreatment, denied benefits, discipline and termination based in whole or part on her gender and/or her sexual orientation.

37. Defendant had no legitimate business reasons for any of its acts of discrimination and harassment toward Plaintiff. Each act of gender discrimination and harassment is in violation of the TCHRA.

38. As a direct and proximate result of Defendant's willful, knowing and intentional discrimination against her, Plaintiff has suffered and will continue to suffer pain and suffering, and extreme and severe mental anguish and emotional distress. Plaintiff is thereby entitled to general and compensatory damages in amounts that will be proven at trial.

39. The above-described acts on Defendant's part were undertaken in violation of the TCHRA, and the above-described acts proximately caused Plaintiff substantial injuries and damages.

**VI.
JURY DEMAND**

40. Plaintiff requests that this action be heard before a jury and will pay the jury fee as required by the Rules.

VII.
REQUEST FOR DISCLOSURE

41. Under Texas Rule of Civil Procedure 194, Plaintiff requests that Defendant disclose, within 50 days of service of this request, the information or material described in Rule 194.2.

VIII.
PRAYER

WHEREFORE, premises considered, Plaintiff prays that Defendant be cited to appear and answer herein, and that on final trial, Plaintiff have judgment against Defendant for:

- a. Permanent injunction enjoining Defendant, its agents, successors, employees, and those acting in consort with Defendant from engaging in any employment practice which discriminates on the basis of sex/gender and/or sexual orientation;
- b. All damages to which Plaintiff may be entitled pursuant to this Original Petition, or any amendment(s) thereto, including but not limited to back pay, reinstatement or front pay in lieu of reinstatement, loss of earnings in the past, loss of earning capacity in the future, loss of benefits in the past, loss of benefits in the future, statutory relief at law, and equity;
- c. Compensatory damages for pain and mental suffering in the past and future;
- d. Punitive damages in an amount above the minimum jurisdictional limit of the Court;
- e. Reasonable attorney's fees, with conditional awards in the event of appeal;
- f. Pre-judgment interest at the highest rate permitted by law;
- g. Post-judgment interest from the judgment until paid at the highest rate permitted by law;
- h. Costs of court and expert witness fees incurred by Plaintiff in the preparation and prosecution of this action; and
- i. Such other and further relief, at law or in equity, to which Plaintiff may be entitled, whether by this Petition or by any amendment hereto.

Respectfully submitted,

/s/ Marjorie A. Murphy

Marjorie A. Murphy
State Bar No. 24013218
2101 Citywest Blvd, Ste. 100
Houston, Texas 77042
Telephone: (832) 564-3804
Facsimile: (832) 553-7441
Email:marjorie@themurphylawpractice.com
ATTORNEY FOR PLAINTIFF,
JACKEE NARCISSE

Unofficial Copy Office of Marilyn Burgess Clerk

7018 2290 0001 3525 5149

CAUSE NO. 202106531

p.2

RECEIPT NO. 890527

75.00 CTM

TR # 73837602

PLAINTIFF: NARCISSE, JACKEE
vs.

DEFENDANT: BOTTLING GROUP LLC (D/B/A PEPSICO)

In The 215th
Judicial District Court
of Harris County, Texas
215TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of HarrisTO: BOTTLING GROUP LLC (D/B/A PEPSICO) (A CORPORATION) MAY BE SERVED BY
SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM

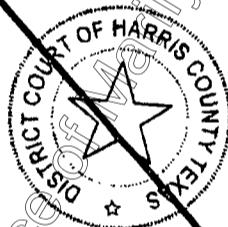
1999 BRYAN STREET STE 900 DALLAS TX 75201 - 3136

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSUREThis instrument was filed on the 2nd day of February, 2021, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SERVED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

TO OFFICER SERVING:

This citation was issued on 3rd day of February, 2021, under my hand and seal of said Court.

Issued at request of:MURPHY, MARJORIE A.
2101 CITYWEST BLVD., STE.100
HOUSTON, TX 77042
Tel: (832) 564-3804
Bar No.: 24013218

Marilyn Burgess

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

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CLERK'S RETURN BY MAILING

Came to hand the _____ day of _____, _____, and executed by mailing to Defendant certified mail, return receipt requested, restricted delivery, a true copy of this citation together with an attached copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE to the following addressee at address:

ADDRESS

Service was executed in accordance with Rule 106
(2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____, _____
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy

RECORDER'S MEMORANDUM

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at the time of imaging

73837602

7018 2290 0001 3525 5149

CAUSE NO. 202106531

RECEIPT NO. 890527

75.00

CTM

TR # 73837602

PLAINTIFF: NARCISSE, JACKEE

vs.

DEFENDANT: BOTTLING GROUP LLC (D/B/A PEPSICO)

In The 215th
Judicial District Court
of Harris County, Texas
215TH DISTRICT COURT
Houston, TX

CITATION (CERTIFIED)

THE STATE OF TEXAS
County of HarrisTO: BOTTLING GROUP LLC (D/B/A PEPSICO) (A CORPORATION) MAY BE SERVED BY
SERVING ITS REGISTERED AGENT CT CORPORATION SYSTEM

1999 BRYAN STREET STE 900 DALLAS TX 75201 - 3136

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YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org.

TO OFFICER SERVING:

This citation was issued on 3rd day of February, 2021, under my hand and seal of said Court.

Issued at request of:

MURPHY, MARJORIE A.
2101 CITYWEST BLVD., STE.100
HOUSTON, TX 77042
Tel: (832) 564-3804
Bar No.: 24013218

*Marj Burgess*

MARILYN BURGESS, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

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CLERK'S RETURN BY MAILING

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(a) ADDRESSEE

ADDRESS

Service was executed in accordance with Rule 106
(2) TRCP, upon the Defendant as evidenced by the return receipt incorporated herein and attached hereto at

on _____ day of _____, _____
by U.S. Postal delivery to _____

This citation was not executed for the following reason: _____

MARILYN BURGESS, District Clerk
Harris County, TEXAS

By _____, Deputy

73837602



Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

Marilyn Burgess - District Clerk Harris County
Envelope No. 50325993
By: Cynthia Clausell-McGowan
Filed: 2/3/2021 3:08 PM

Request for Issuance of Service

CASE NUMBER: _____

CURRENT COURT: _____

Name(s) of Documents to be served: Original Petition _____

FILE DATE: 02/02/21 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Bottling Group, LLC d/b/a PepsiCo _____

Address of Service: 1999 Bryan Street, Ste. 900 _____

City, State & Zip: _____ Dallas, Texas 75201-3136. _____

Agent (if applicable) _____ CT Corporation System _____

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

<input type="checkbox"/> Citation	<input type="checkbox"/> Citation by Posting	<input type="checkbox"/> Citation by Publication	<input type="checkbox"/> Citations Rule 106 Service
<input type="checkbox"/> Citation Scire Facias	Newspaper _____		
<input type="checkbox"/> Temporary Restraining Order	<input type="checkbox"/> Precept	<input type="checkbox"/> Notice	
<input type="checkbox"/> Protective Order			
<input type="checkbox"/> Secretary of State Citation (\$12.00)	<input type="checkbox"/> Capias (not by E-Issuance)	<input type="checkbox"/> Attachment (not by E-Issuance)	
<input type="checkbox"/> Certiorari	<input type="checkbox"/> Highway Commission (\$12.00)		
<input type="checkbox"/> Commissioner of Insurance (\$12.00)	<input checked="" type="checkbox"/> Hague Convention (\$16.00)	<input type="checkbox"/> Garnishment	
<input type="checkbox"/> Habeas Corpus (not by E-Issuance)	<input type="checkbox"/> Injunction	<input type="checkbox"/> Sequestration	
<input type="checkbox"/> Subpoena			
<input type="checkbox"/> Other (Please Describe) _____			

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

ATTORNEY PICK-UP (phone) _____

E-Issuance by District Clerk
(No Service Copy Fees Charged)

MAIL to attorney at: _____

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CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____

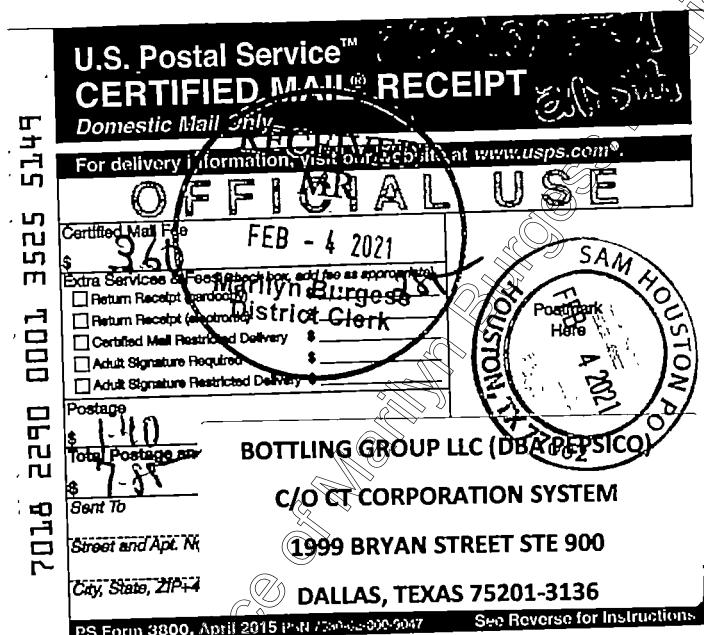
OTHER, explain _____

Issuance of Service Requested By: Attorney/Party Name: Marjorie A. Murphy Bar # or ID 24013218

Mailing Address: 2101 Citywest Blvd., Ste. 100, Houston, Texas 77042

Phone Number: 832-564-3804

EXHIBIT A-4



RECORDER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging.